

REMARKS

Claims 1-40 are pending in the present Application. Claim 1 has been amended. Applicants have noted and carefully studied the Examiner's comments and the cited art. Applicants respectfully traverse the rejections and request reconsideration. Applicants believe that the present Application is now in condition for allowance, which prompt and favorable action is respectfully requested.

Amended Claims

Claim 1 has been amended to correct a typographical error. Applicants respectfully submit that because such amendment was made to correct a correct typographical error, that such an amendment does not constitute a narrowing amendment.

Claims 1-40 (103a Rejections)

The Office Action has rejected claims 1-40 have been rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over Cowan in view of Eagle.

Cowan

Applicants submit that Cowan discloses a system for wireless software upgrades with version control, (title). Such system is designed to operate such that if "the mobile device [is determined to] not currently have the operating software version identified by the host computer, the mobile device prompts the host computer to download the [upgraded] version stored in the host computer." (col. 2, lns. 48-51). If, on the other hand, the mobile device is determined to have the software version identified by the host computer, "the mobile device simply continues to operate using the operating software currently stored therein. In this manner, the system does

not needlessly spend time replacing the operating software in the mobile devices with the same software,” (col. 2, lns. 48-55).

As such, Applicants submit that Cowan discloses a system that performs an upgrade of an old operating system a new version of the same. As noted by the most recent Office Action, Cowan is absent discussion regarding the deletion of an application component while maintaining application-associated data. Further, Cowan appears to generally be directed to maintaining or increasing current memory storage demand, where the code of a current version of a software application (e.g., operating system) is upgraded with the code of a new and different version of the same software. In addition, Applicants note that Cowan discloses the installation of upgraded software, not previously deleted software.

Eagle

Applicants submit that Eagle discloses a method and computer program for distributing software to a personal palm-type device through a global software distribution package transmittable over the world wide web, (title). More specifically, such system was developed “to provide ... a solution to the problem of how a personal digital assistant or personal palm-type device can provide sufficient RAM capacity to store the complete global software distribution package so that the appropriate software or software upgrade may be installed into the device, (col. 1, ln. 66 – col. 2, ln. 4).

As such, Eagle discloses three steps including: “deleting ... all application programs other than application programs required to support the device operating system to receive the global software distribution package and loading the received global software distribution package into the now available device RAM. Then the software from the global package needed to make the distribution or upgrade of the device is loaded from the global distribution package into ... (ROM) Upon the completion of this distribution, the global software distribution package is

deleted from said RAM, and all previously deleted application programs are then downloaded from ... ROM back into said ... RAM,” (col. 5, lns. 5-19).

As such, Applicants note that the first step includes deleting all application programs (except for one) while at the same time there is an absence of discussion, discussion or suggestion of how the deletion of such applications might operate without the loss of application-associated data. Further, because the overall process in Eagle is directed to the providing a solution for providing enough RAM to store a distribution package, (col. 1, ln. 66 – col. 2, ln. 4), where the “system being distributed ... must store the entire distribution package in its RAM,” (col. 1, lns. 61-63), and the “deleting ... all application programs other than application programs required to support the device operating system to receive the .. distribution package and loading the ... distribution package,” Applicants therefore submit that as such Eagle, disclosing a system which deletes entire applications, teaches away from Applicants’ claimed subject matter that including, for example, the deleting one or more application components of one or more resident software applications without loss of the application associated data, (claim 1).

Acknowledgement Of What Cowan Doesn’t Disclose, Teach or Suggest

Applicants would like to emphasize that which is acknowledged not to be disclosed, taught or suggested by Cowan, namely Applicants make reference to the Office Action statement that “Cowan fails to explicitly teach that upon storage capacity being need by the at least one wireless device, the wireless device selectively deletes one or more application components of the one or more resident software applications from the storage without loss of the application associated data.”

Independent Claims 1, 8, 16 and 20

Applicants further submit that neither Cowan (see above), nor Eagle disclose, teach or suggest, whether considered alone, or in combination, at least Applicants' claimed subject matter including, inter alia,

"... upon storage capacity being needed by the at least one wireless device ... deleting one or more application components of the one or more resident software applications from the storage without loss of the application-associated data, and upon the deleted one or more application components being needed ... the wireless device selectively ... installing the ... one or more application components ... on the wireless device,"

(claim 1, 16),

"... upon capacity being needed in the means for storing ... deleting one or more application components of the one or more resident software applications from the means for storing without loss of the application-associated data, and upon the deleted one or more application components being needed ... the wireless communication means selectively ... installing the ... one or more application components ... on the wireless communication means,"

(claim 8),

"... upon storage capacity being needed by the at least one wireless device ... deleting one or more application components of one or more resident software applications from the storage of the wireless device, the deletion occurring without loss of the application-associated data; upon the deleted one or more application components being needed ... installing at the wireless device the ... one or more application components ...,"

(claim 20),

Cowan Teaches Away From The Deletion Of An Application Based On The Need For Storage Capacity

Not only does Cowan does not disclose, teach or suggest, either when considered alone, or in combination with Eagle et al., at least, that "upon storage capacity being needed by the at least one wireless device the wireless device selectively deleting one or more application components of one or more resident software applications," Cowan instead teaches away from such functionality where Cowan discloses that upgrades are performed in response to the

detection of the presence of new and different versions of such software on a host computer, (col. 6, lns. 9-51), and not in response to storage capacity being needed. More specifically, Cowan describes the upgrading of operating software as: “when a mobile terminal 36 is next rebooted, the mobile terminal 36 will detect that the host computer 30 has an upgraded version of ... software and will proceed to request that the upgraded software be downloaded.” (col. 6, lns. 47-51). As such, Applicants submit that Cowan teaches away from Applicants’ claimed subject matter by suggesting a wholly different reason for deleting an application, namely, the mere presence of an upgraded version of the software.

Eagle DOES NOT Disclose The Deleting of Entire Applications While Sparing Associated Application-Associated Data

Eagle does not disclose, teach or suggest, either when considered alone, or in combination with Cowan, at least, that “... deleting one or more application components of the one or more resident software applications ... without loss of the application-associated data ...,” (claim 1, 8, 16 and 20). In fact, Eagle teaches away from such functionality where Eagle discloses the deleting of entire applications, not just application components, in response to providing room for upgrading an application.

More specifically, Eagle discloses a system “to provide ... a solution to the problem of how a personal digital assistant or personal palm-type device can provide sufficient RAM capacity to store the complete global software distribution package so that the appropriate software or software upgrade may be installed into the device, (col. 1, ln. 66 – col. 2, ln. 4). Eagle discloses three steps including: “[1] deleting ... all application programs other than application programs required to support the device operating system to receive the global software distribution package and loading the received global software distribution package into the now available device RAM. [2] Then the software from the global package needed to make

the distribution or upgrade of the device is loaded from the global distribution package into ... (ROM) where all of the device software is permanently stored. Upon the completion of this distribution, the global software distribution package is deleted from said RAM, and all previously deleted application programs are then downloaded from ... ROM back into said ... RAM,” (col. 5, lns. 5-19).

As such, Applicants note that the first step includes deleting all application programs (except for one) without a discussion related to how the deletion of such applications might operate without the loss of application-associated data. Further, because the overall process in Eagle is directed to the providing a solution for providing enough RAM to store a distribution package, (col. 1, ln. 66 – col. 2, ln. 4), where the “system being distributed ... must store the entire distribution package in its RAM,” (col. 1, lns. 61-63), and the “deleting ... all application programs other than application programs required to support the device operating system to receive the .. distribution package and loading the ... distribution package,” Applicants therefore submit that as such Eagle teaches away from Applicants’ claimed subject matter that including, for example, the deleting one or more application components of one or more resident software applications without loss of the application associated data, (claim 1).

Obviousness Requirements Not Met

Applicants note that in order for prior art references to be combined by obviousness, at a minimum, there must be a suggestion of desirability for the modification. Applicants submit that neither Cowan nor Eagle disclose, teach or suggest the desirability for modification, explicit or otherwise. In addition, there must be a teaching or suggestion to make the combination and a reasonable expectation of success must be both found in the prior art, and not based on Applicants’ disclosure. Further, Applicants note that the level of skill in the art cannot be relied upon to provide the suggestion to combine references. Additionally, since none of the cited

references disclose, teach or suggest "... deleting one or more application components of the one or more resident software applications ... without loss of the application-associated data ... ," (claim 1, 8, 16 and 20), the combination of any of the cited references cannot produce the Applicants' invention as claimed.

Further, Applicants respectfully submit that the Office Action uses improper hindsight reasoning by suggesting it would have been obvious to modify Cowan. and/or Eagle to achieve Applicants' claimed subject matter, where the Office Action, using impermissible hindsight, bases such arguments only upon the teaching or suggestion within Applicants' own disclosure. Applicants submit that there must be some suggestion or motivation, either in the reference itself, or in the knowledge of generally available to one of ordinary skill in the art, to modify the reference as described. Further, to the extent that the Office Action relies on a position that modifications of Cowan and/or Eagle to meet the claimed invention would have been within the ordinary skill of the art at the time Applicants' invention was made, because the references, and/or the knowledge of one skilled in the art, were individually known to those of skilled in the art, is not sufficient to establish a prima facie case of obviousness without some objective reason to combine the teachings of the references. Applicants submit that if one of ordinary skill in the art at the time of Applicants' invention were to read Cowan. and/or Eagle such a person would not be in possession of Applicants' claimed subject matter.

Dependent Claims 2-5 and 7

Applicants submit that for at least the reason that claims 2-5 and 7 (dependent claims) each depend from claim 1 (parent claim), and as a dependent claims therefrom, the dependent claims are allowable for at least the reasons for which the parent claim is allowable. Applicants further submit that the dependent claims are also allowable in light of the presence of novel and non-obvious elements contained therein that are not otherwise present in the parent claim.

Dependent Claims 6 and 18

Applicants submit that for at least the reason that claims 6 and 18 (dependent claims) depend from claims 1 and 16 (parent claims) respectively, and as a dependent claims therefrom, the dependent claims are allowable for at least the reasons for which the corresponding parent claims are allowable. Applicants further submit that the dependent claims are also allowable in light of the presence of novel and non-obvious elements contained therein that are not otherwise present in the corresponding parent claims.

Independent Claims 9, 15 and 20

Applicants direct the Examiner's attention to the arguments presented above regarding the allowability of claims Independent Claims 1, 8, 16 and 20, and submit, that for at least the reasons mentioned therein, that claims 9, 15 and 20 are also allowable. Applicants also submit that in addition to such reasons, such claims are also allowable in light of the presence of novel and non-obvious elements contained therein that are not otherwise present in claims 1, 8, 16 and 20.

Dependent Claim 10

Applicants submit that for at least the reason that claim 10 (dependent claim) depends from claim 9 (parent claim), and as a dependent claim therefrom, the dependent claims are allowable for at least the reasons for which the parent claim is allowable. Applicants further submit that the dependent claim is also allowable in light of the presence of novel and non-obvious elements contained therein that are not otherwise present in the parent claim.

Dependent Claim 11

Applicants submit that for at least the reason that claim 11 (dependent claim) depends from claim 9 (parent claim), and as a dependent claim therefrom, the dependent claim is allowable for at least the reasons for which the parent claim is allowable. Applicants further

submit that the dependent claim is also allowable in light of the presence of novel and non-obvious elements contained therein that are not otherwise present in the parent claim.

Dependent Claim 12

Applicants submit that for at least the reason that claim 12 (dependent claim) depends from claim 9 (parent claim), and as a dependent claim therefrom, the dependent claim is allowable for at least the reasons for which the parent claim is allowable. Applicants further submit that the dependent claim is also allowable in light of the presence of novel and non-obvious elements contained therein that are not otherwise present in the parent claim.

Dependent Claim 13

Applicants submit that for at least the reason that claim 13 (dependent claim) depends from claim 12 (parent claim), and as a dependent claim therefrom, the dependent claims are allowable for at least the reasons for which the parent claim is allowable. Applicants further submit that the dependent claim is also allowable in light of the presence of novel and non-obvious elements contained therein that are not otherwise present in the parent claim.

Dependent Claim 14

Applicants submit that for at least the reason that claim 14 (dependent claim) depends from claim 9 (parent claim), and as a dependent claim therefrom, the dependent claim is allowable for at least the reasons for which the parent claim is allowable. Applicants further submit that the dependent claim is also allowable in light of the presence of novel and non-obvious elements contained therein that are not otherwise present in the parent claim.

Dependent Claims 17 and 19

Applicants submit that for at least the reason that claims 17 and 19 (dependent claims) each depend from claim 16 (parent claim), and as a dependent claims therefrom, the dependent claim is allowable for at least the reasons for which the parent claim is allowable. Applicants

further submit that the dependent claim is also allowable in light of the presence of novel and non-obvious elements contained therein that are not otherwise present in the parent claim.

Independent Claims 21, 26, 31 and 36

Applicants direct the Examiner's attention to the arguments presented above regarding the allowability of claims Independent Claims 1, 8, 16 and 20, and submit, that for at least the reasons mentioned therein, that claims 21, 26, 31 and 36 are also allowable. Applicants also submit that in addition to such reasons, such claims are also allowable in light of the presence of novel and non-obvious elements contained therein that are not otherwise present in claims 1, 8, 16 and 20.

Dependent Claims 22, 27, 32 and 37

Applicants submit that for at least the reason that claims 22, 27, 32 and 37 (dependent claims) depend from claims 21, 26, 31 and 36 (parent claims) respectively, and as a dependent claims therefrom, the dependent claims are allowable for at least the reasons for which the corresponding parent claims are allowable. Applicants further submit that the dependent claims are also allowable in light of the presence of novel and non-obvious elements contained therein that are not otherwise present in the corresponding parent claims.

Dependent Claims 24, 29, 34 and 39

Applicants submit that for at least the reason that claims 24, 29, 34 and 39 (dependent claims) depend from claims 21, 26, 31 and 36 (parent claims) respectively, and as a dependent claims therefrom, the dependent claims are allowable for at least the reasons for which the corresponding parent claims are allowable. Applicants further submit that the dependent claims are also allowable in light of the presence of novel and non-obvious elements contained therein that are not otherwise present in the corresponding parent claims.

Dependent Claims 25, 30, 35 and 40

Applicants submit that for at least the reason that claims 25, 30, 35 and 40 (dependent claims) depend from claims 21, 26, 31 and 36 (parent claims) respectively, and as a dependent claims therefrom, the dependent claims are allowable for at least the reasons for which the corresponding parent claims are allowable. Applicants further submit that the dependent claims are also allowable in light of the presence of novel and non-obvious elements contained therein that are not otherwise present in the corresponding parent claims.

CONCLUSION

In light of the amendments contained herein, Applicants submit that the application is in condition for allowance, for which early action is requested.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

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